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To: U.S. Patent and Trademark Office - From: Christian R. Andersen
 Examiner: Hector A. AGDEPPA Sr. Paralegal – Intellectual Property
 Group Art Unit: 2642

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FORMAL SUBMISSION OF:

1) Reply Transmittal Letter; and 2) Reply to Examiner's Answer.

Title: **METHOD AND APPARATUS FOR PROVIDING TELEPHONE SUPPORT FOR
 INTERNET SALES**
 Serial No. **09/596,466**
 Filing Date: **June 19, 2000**
 First Named Inventor: **Craig L REDING**
 Atty. No. **00-VE22.39**

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Date of Transmission: February 1, 2005

#1742 v1

Patent
Attorney's Docket No. Bell-19 (00-VE22.39)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

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In re Patent Application of)
Appellants: REDING et al.) Group Art Unit: 2642
Application No.: 09/596,466) Examiner: Hector A. Agdeppa
Filed: June 19, 2000)
For: METHODS AND APPARATUS)
FOR PROVIDING TELEPHONE)
SUPPORT FOR INTERNET SALES)

REPLY TRANSMITTAL LETTER

Commissioner For Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Enclosed (in triplicate) is a Reply to Examiner's Answer for the above-identified patent application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 07-2347 and please credit any excess fees to such deposit account.

Reply Transmittal Letter
Application Serial No. 09/596,466
Attorney's Docket No. Bell-19 (00-VE22.39)
Page 2

The Commissioner is hereby authorized to charge any other appropriate fees that may be required by this paper that are not accounted for above, and to credit any overpayment, to Deposit Account No. 07-2347.

Respectfully submitted,

By: 
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IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE

FEB 01 2005

BEFORE THE BOARD OF
PATENT APPEALS AND INTERFERENCES

Application No.: 09/596,466

Filed: June 19, 2000

Appellants: Craig L. REDING, Suzi LEVAS

Attorney Docket No: Bell-19 (00-VE22.39)

Title: METHODS AND APPARATUS FOR PROVIDING TELEPHONE
SUPPORT FOR INTERNET SALES

TC/A.U.: 2642

Examiner: Hector A. Agdeppa

Mail Stop: Appeal Brief - Patents
Commissioner for Patents
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REPLY TO EXAMINER'S ANSWER

I. Introduction

This Reply to Examiner's Answer is in response to the Examiner's Answer dated December 01, 2004 and follows the submission of the Appeal Brief dated August 30, 2004.

II. Grouping of Claims

The Examiner summarizes Appellants' proposed grouping of claims in Section (7) of the Examiner's Answer. The Examiner does not dispute or suggest an alternative grouping of claims. Accordingly, for purposes of the Appeal it is respectfully submitted that Appellants' proposed claim Groupings should stand. Thus, for purposes of this Appeal, Group I includes claims 1, 2, 4, 5, and 8-22 and Claim Group II includes claims 3, 6, and 7.

III. Prior Art of Record

The Examiner cites only the two patents in Section (9) titled Prior Art of Record:

5,884,032 Bateman et al. 3-1999
6,141,412 Smith et al. 10-2000

As will be discussed further below, despite requests from Appellants, the Examiner has repeatedly failed to cite any additional references in support of the claim rejections and has failed to submit an affidavit setting forth the basis of any personal knowledge upon which the rejections are based. Accordingly, any decision with regard to the Appeal of the rejection of the pending claims should be limited to consideration of these two references.

IV. Response to Examiner's Grounds of Rejection

1. **For Purposes of Appeal, the Examiner Should Be Limited to Basing the Rejections to the Applied References: Bateman et al. and Smith et al. and the Board Should Disregard the Examiner's Assertions Which are not Supported by a Reference or Affidavit**

Having repeatedly declined to provide an affidavit or cite additional references in support of the portions of the rejections which are not based on the two applied references, it would be manifestly unjust and contrary to the patent rules of practice to consider the Examiner's unsupported assertions when considering the obviousness of the pending claims.

Appellants have repeatedly asserted that the claims are directed to a novel combination of elements and that the applied references do not teach, disclose or suggest the claimed combination of elements. Furthermore, Appellants have consistently disputed the Examiner's numerous unsupported assertions about the obviousness of various elements and the obviousness of combining them to modify the applied references in the manner suggested by the Examiner.

For example, in Appellants' May 3, 2004 Response to the Final Office Action dated February 4, 2004, Appellants stated:

The Examiner's rejection includes many statements about what is "obvious" but fails to support these statements with cites to the applied references. Applicants strongly disagree with the Examiner's opinion regarding obviousness but are unable to respond without elaboration on the Examiner's basis for the rejections. ...

Applicants respectfully request that any portions of the rejection which are not supported by a specific cite to a reference or by an Affidavit be omitted from any future office actions ...

In rejecting the claims the Examiner states:

An obvious way for a customer to contact a specific agent is to specify who that agent is, by a telephone number of DNIS for example. ...

Applicants request that the Examiner cite a reference in support of this position, i.e., which specifies a specific agent by a telephone number, so that Applicants [sic] can see the context in which the use of such a telephone number has, if at all, been taught by the prior art. Applicants respectfully submit that the Smith et al. patent does not describe a telephone number being used to identify a specific or preferred agent (the agent is requested following a call which is made in an attempt to contact the agent). Furthermore Applicants see nothing in the Bateman et al. patent that uses a telephone number to specify "a preferred agent", (Bold and italics in original, May 3, 2004 Response, pages 13-14)

The regulations regarding the Examiner's obligation to support a rejection by citing a reference or providing an affidavit are clearly set forth in 37 C.F.R. §1.104(d)(2), which states:

When a rejection in an application is based on facts within the personal knowledge of an employee or the Office, the data shall be as specific as possible, and the reference **must be supported, when called for by the applicant, by the affidavit of such employee**, and such affidavit shall be subject to contradiction or explanation by the affidavits of the applicant and other persons. (37 C.F.R. § 1.104(d)(2) (emphasis added).)

By failing to honor Appellants' numerous requests to support the rejections by citing a reference or providing affidavits, the Examiner has deprived Appellants of a reasonable and fair opportunity to subject the Examiner's assertions to contradictions or explanation by the affidavits of the Appellants or other persons. Accordingly, it would now be improper to rely on the Examiner's unsupported assertions to reject the pending claims.

Accordingly, it is respectfully submitted, that the Examiner's rejections should be considered solely in terms of the teachings and disclosures of the two cited references U.S. Patent No. 5,884,032 to Bateman et al. and U.S. Patent No. 6,141,412 to Smith et al.

2. **The Examiner's Stated Grounds For Rejecting Claim 1 do Not Provide A Sufficient Basis for Upholding the Obviousness Rejection**

In the Examiner's Grounds of Rejection response to Appellants' Appeal Brief, it is stated that representative claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,884,032 (Bateman et al.) in view of US 6,141,412 (Smith et al.) No other references are cited.

Claim 1 recites:

A method of providing customer service to a user of the Internet, the method comprising the steps of:

receiving a message, originating from a computer located at a user premise, over the Internet representing a request for a call from a customer service representative, said message including a telephone number corresponding to said user and a telephone number corresponding to at least one customer service representative; and

operating, in response to said received message, calling equipment to establish a call between said user and a customer service representative. (Emphasis added.)

A. **The Examiner's Initial Arguments with Regard to Claim 1 are Unsupported and Flawed**

In Paragraph 5 of Examiner's Grounds of Rejection, the Examiner states: "What Bateman et al. does not teach is including the telephone number corresponding to at least one customer service representative in the HTML help request." (Examiner's Answer, p. 5.) Appellants agree with Examiner, but would go further. There is nothing in Bateman et al. that would teach or suggest a telephone number corresponding to at least one customer service representative in a message originating from a computer located at a user premise in a message that includes a telephone number corresponding to said user, as is specified in Appellants' claim 1. The Smith et al. patent describes the case where a customer calls and requests a specific agent. (See, col. 2, lines 11-14.) While Smith et al. makes it clear that some customers may want to talk with a preferred agent, it does not teach using a telephone number to identify the preferred agent or including

an agent telephone number in an E-mail or other message communicated over the Internet.

The Examiner has been repeatedly requested to supply a specific reference showing the use of an agent's telephone number by a customer to identify a specific agent, but has failed to do so. Instead, the Examiner continues to argue that it would be "obvious" without providing the support required to uphold the assertion.

For example, the Examiner states:

However, it is well known in the call center arts that customers for various reasons might want to talk to/communicate with a specific agent as taught by Smith et al. (Col. 2, lines 11-12 of Smith et al.)

First it must be noted that there is no criticality in using a telephone number for this purpose. Nearly anyone who has ever had to call into a call center for technical support, to buy a product over the telephone, etc. has experience having an agent provide him/her with their name or an agent ID or a telephone number corresponding to the agent's direct line. This is simply because a customer may prefer dealing with a particular agent, it may be quicker to deal with an agent already familiar with a customer's needs, or simply because a direct line would allow a customer to bypass standard call center holding queues and the like.

(Examiner's Answer, pp. 5-6.)

The Examiner's statement that there is "no criticality in using a telephone number" seems to disregard the remainder of the claimed subject matter which involves "operating, in response to said received message, calling equipment to establish a call between said user and a customer service representative." The use of phone number is critical to establishing a call.

Appellants respectfully submit that the Examiner's unsupported assertions describe calling into a calling center, obtaining a telephone number of an agent and then contacting the agent apparently through the use of another telephone call. Such an approach would actually teach away from the claimed invention by teaching the use of calls to contact the agent as opposed to the email message suggested by the present

claims and there is no teaching or discussion in the references to render the Examiner's suggested combination obvious.

The Examiner proceeds to assert, without citing support for the contentions:

It would have been obvious for one of ordinary skill in the art at the time the invention was made to have used an HTML form that allowed a customer to input a specific agent identifier, whether that identifier is an agent's name, ID, telephone number, or any appropriate information identifying a specific agent in Bateman et al. This is because, as discussed above, there exists a well-known motivation for desiring contact with a specific agent. Therefore, in addition to inputting a customer's telephone number, a telephone number or identifier of a specific agent could also be inputted into the HTML form taught by Bateman et al. (Examiner's Answer, p. 6.)

Bateman et al. does not describe inputting a specific agent identifier of any type in a message from a customer's computer which also includes the customer's telephone number. Accordingly, the Bateman et al. system would not have the capability to support using such information if it was provided. Without support for such functionality, which would require modification of the Bateman et al. system beyond just adding a field to a message, there would be no reason to add such a field. In fact, there is no discussion in either of the references where such information would come from. The Examiner's suggestions that one could call up somewhere to get such information or somehow otherwise search for such agent identifier information prior to sending the claimed message does not seem to be an obvious or user friendly way of implementing a system intended to facilitate establishing "a call between said user and a customer service representative."

The Examiner again argues without citing any support:

Moreover, it is well known in the computer as well as telephony arts that a web developer/programmer/system administrator can include nearly anything he/she would want in an HTML form. (Examiner's Answer, p. 6.)

Appellants respectfully submit that the issue is not whether one could include the claimed information in an HTML form but rather whether, based on the applied art, i.e.,

the two cited references, it is obvious to include the recited information in a message that is part of the claimed combination of steps recited in, e.g., claims 1 and 3. **Clearly the applied references do not teach, disclose or suggest a message having the claimed content.** Accordingly, the fact that one of ordinary skill in the art could create such a message is not the issue.

**B. The Email Embodiment of Bateman et al.
Cited By the Examiner Does Not Support
the Examiner's Obviousness Conclusion**

The Examiner's rejection on page 7, discusses various different embodiments found in Bateman et al. including an email embodiment. None of which disclose or suggest the use of a message from a customer's computer including both a telephone number corresponding to a user and a telephone number corresponding to at least one customer service representative.

The Examiner argues:

Bateman et al. teaches that a customer may contact a call center via an email message. Again, anyone who is familiar with email communications knows that one can enter anything he/she may want into an email message, including some indication of a specific agent he/she may want [sic] to communicate with. (Col. 6, lines 28-30 of Bateman et al.) (Examiner's Answer, p. 7.)

Notably, a review of this particular embodiment of Bateman et al. describes the case where an email message is responded to, depending on agent availability, by the next available agent, where multiple agents may be supported by the call center 24 to which the message is sent. (See, col. 6, lines 31-44.) The Examiner is arguing not only to alter the contents of the message described in Bateman et al. without showing a single reference that shows the Examiner's suggested modification, but also to modify Bateman et al. to effectively disable the next available agent routing functionality actually described in Bateman et al. and replace it with other functionality. There is no disclosure or suggestion in the art for any of these modifications. Accordingly, the obviousness rejection of claim 1 should be overruled.

**C. The Second Embodiment of Bateman et al.
Cited By the Examiner Does Not Support
the Examiner's Obviousness Conclusion**

On Page 7 of the Answer, the Examiner cites a second embodiment of Bateman et al. stating:

Alternatively, Bateman et al. also teaches a second embodiment wherein a customer may use a PC 111 to make a multimedia call to a multimedia or WWW server 102 of call center 104, and again select a "make call" option. (Col. 8, lines 11-50 of Bateman et al.) Bateman et al. teaches that the request first signals through the broadband data net 117 to a PSTM telephone switch 116 to ring a customer's line 107. Then the switch 116 dials the destination party automatically, which could be an ACD/call center group or individual agent. (Col. 8, lines 51-61 of Bateman et al.)

Note first that because WWW servers are used, the broadband data net 117 is the Internet or analogous to the Internet. Also, switch 116 is an intermediate switch, not a switch within call center 102, nor is the switch 116 under the call center's control. (Fig. 6 of Bateman et al.) Therefore it is at least obvious if not inherent that some call request message originating from PC 111 is used to initiate communications between the customer and agent. It is also obvious if not inherent that the call request message or some other call processing message has both the customer's telephone number as well as the agent's or call center's telephone number. This is because, as disclosed above, since switch 116 is not controlled by call center 102, there would be no other way for switch 116 to know to dial both the customer's line and the call center or agent, and what number to specifically dial. Such operation is known if not standard in POTS and PSTN communications. (Examiner's Answer, p. 7 (bold added).)

The Examiner's analysis of the second embodiment described in Bateman et al. is flawed because, while relying on the summary text description referring to the hardware diagram of Fig. 6 of Bateman et al., the Examiner ignores the more detailed flow diagram which shows the processing flow for the second embodiment described in col. 8 of Bateman et al. To properly interpret the reference, it must be taken a whole for what it teaches. The Examiner can not simply disregard Fig. 7 or the steps shown therein simply because they do not support the Examiner's inherency argument. While the switch 116 is not controlled by call center 104 in the second embodiment relied upon by the Examiner,

the switch (as shown in Fig. 7), is controlled in response to signals received from the Beacon CTI server 109 which is responsive to signals from the company's multimedia server 102 during the call set-up process of the second embodiment. Neither of these elements are at the customer's premises. Accordingly, the description in Bateman et al. indicates that **the company as opposed to the customer supplies the telephone number information to be used by switch 116 to call the agent or ACD system.**

The brief description of Fig. 6 found in Bateman et al. states: "FIG. 6 shows a block diagram of the second embodiment of the invention; FIG. 7 shows a process flow diagram for the second embodiment of the invention." Accordingly, there should be no dispute that Fig. 7 shows the details of the process of the "second embodiment" shown in Bateman et al., which is discussed at col. 8 of Bateman et al. and relied upon by the Examiner to reject the claims.

A review of Fig. 7 shows that the call establishment process starts in step 7-1 with the customer making a multimedia call to XYZ co.'s multimedia server. The customer which is in communication with the multimedia server then selects the "make call" option on the screen. The XYZ company's multimedia server 28 then contacts the beacon CTI server 109 which sets up the call (see step 7-3) through telephone switch 116 (see Fig. 1 and see col. 8, lines 45-61). Notably, while the telephone switch needs both the customer's telephone number and the telephone number of the agent or ACD system to complete the call, **there is no need or reason for the agent or ACD telephone number to come from the customer.** There is no discussion of the agent or ACD telephone number coming from the customer or the customer's computer. Accordingly, the burden is on the Examiner to establish that this feature is inherent or taught by the prior art.

In the second embodiment cited by the Examiner in Bateman et al., the call is initiated via the company's multimedia server 28 and the beacon CTI server 109, **neither of which is located at the customer's premises.** Either of these elements, which may be controlled by the company, e.g., XYZ company, could supply the telephone number of an agent or ACD system which is to be used in responding to the customer's help request.

Accordingly the Examiner's inherency and unsupported obviousness assertions fail. In fact, this would be a reasonable approach since many companies seek to restrict access to agent number to facilitate the ability of the company to re-allocate telephone lines and/or agents without interfering with customer contacts and without having to supply the updated numbers to the customers. Since the customer seeking help in the second embodiment of Bateman et al. does not perform the actual dialing, there is no reason to supply the customer with an Agents or ACD system's telephone number.

The mere fact that the switch 116, which receives its information from the beacon CTI server 109 after the server 109 has been contacted by the company's multimedia server 28, needs the agent or ACD system's phone number, in no way establishes or teaches that the Agent or ACD phone number should come from a computer system located at a user's premises.

Since the Examiner's inherency and obviousness arguments with regard to the second embodiment of Bateman et al. have been shown to be fundamentally flawed, the rejection of claim 1 should be overruled.

3. The Examiner's Stated Grounds For Rejecting Claim 3 do Not Provide a Sufficient Basis for Upholding the Obviousness Rejection

Claim 3 depends indirectly from claim 1 and recites:

The method of claim 2, further comprising, prior to said step of receiving a message:

operating said computer located at a user premise to obtain said telephone number corresponding to at least one customer service representative from a Web page. (Emphasis added.)

In rejecting claim 3, the Examiner relies on the previous arguments made with regard to claim 1 which are flawed for the above discussed reasons.

Significantly, in the embodiments relied upon by the Examiner to reject claim 1, there is no need or reason for the customer to be supplied with or have to provide the

telephone number of an agent or ACD system to be contacted since this information can be supplied from one or more company servers or other company devices which process E-mails or other signals and then control the initiation of the call.

However, in the rejection of claim 3, the Examiner relies on yet another embodiment, e.g., a third embodiment, described in Bateman et al. Notably, this embodiment does not use an email and is different from the other embodiments described in that the call is dialed at the customer's premises via the computer interface and no message is sent from the user's premises over the Internet to initiate the call. Accordingly, the third embodiment actually teaches away from the features found in claim 1.

In the statement with regard to claim 3 the Examiner states:

See the rejection of claim 1. Furthermore, Bateman et al. teaches in a third embodiment, that a customer selects a "make call" or "help" button appearing on an HTML/web page. (Col. 10, lines 1-3 of Bateman et al.) Bateman et al. teaches that this customer request initiates a PC based DDE whereby the telephone number in the HTML/web page to be called is passed to another application where an outbound call is dialed. Afterwards, an agent may answer the outbound call and communication between the customer and agent is effected (Col. 10, lines 3-13 of Bateman et al.)

Therefore it would have been obvious for one of ordinary skill in the art at the time the invention was made to have allowed a customer of Bateman et al. to obtain the telephone number of at least one agent from an HTML/web page. **In this third embodiment, Bateman et al. teaches immediately effecting communications between the customer and the agent, therefore, not involving a request for an agent to call the customer.** However it provides a strong motivation for a system that as discussed above, **can connect a customer to a specific agent**, wherein the customer could glean a specific agent's telephone number from an HTML/web page instead of inputting a telephone number. (Examiner's Answer, p. 8-9 (emphasis added).)

The Examiner states, in reference to the third embodiment, that the description of this embodiment "provides a strong motivation for a system that .. can connect a customer to a specific agent." A careful review of the portion of Bateman et al. cited by

the Examiner reveals that what is discussed is connecting the party to an "ACD agent" not a specific agent. (See col. 10, line 8 and note that ACD stands for "Automated Call Distribution".) Thus, while it might be possible to modify the third embodiment to contact a "specific agent" such a modification is not suggested by the cited portion of the reference.

The Examiner in rejecting claim 3 goes on to argue an alternative interpretation which is not supported by any of the applied references. On page 9 of the Answer, the Examiner states:

Interpreted differently, all claim 3 suggests is before filling out the HTML form discussed above in claim 1, a customer performs a web search or searches for a telephone number on the call center's website, read as the claimed operating said computer located at a user premise. With this interpretation, claim 3 amounts to a mere preliminary step a customer would engage in before inputting a telephone number of a specific agent, i.e., finding that telephone number so that he/she may the [sic] telephone number to input it. Furthermore, this interpretation results in a limitation that would not even have to be implemented in Bateman et al. by one of ordinary skill in the art at the time the invention was made, because such an action is entirely within the scope of the customer's own actions, and wholly unrelated to the operation of the invention. (Examiner's Answer, p. 9 (bold added).)

The Examiner has failed to cite any art or systems which describe searching on websites for agent numbers and then manually entering the retrieved customer contact numbers to initiate a call. Accordingly, this ground of rejection is unsupported and should not be considered since the Examiner has failed to support the rejection with a reference or affidavit.

Furthermore, Appellants submit that there is no evidence that finding contact numbers for call center agents is as easy to do on the Internet as represented by the Examiner, and there is no reason to suggest, absent the teachings of the present invention, that a company that posted telephone numbers on a website would implement the call

back features of the invention. That is, the Examiner has failed to show anything in the art that suggests the method of claim 1 or the feature obtaining the telephone number used in the combination of claim 1 from a Web page.

In view of the above discussion of the third embodiment of Bateman et al. it should be appreciated that the third embodiment does not anticipate or render obvious the features of claim 3. In addition, the Examiner's rejection based on "an alternative interpretation" of claim 3 is merely based on unsupported conjecture on the Examiner's part and therefore can not be found to provide a valid basis for an obviousness rejection of claim 3 particularly in view of Appellants numerous requests that the Examiner support any rejections with cites to references or an affidavit so that Appellants could have a fair opportunity to respond.

4. Reply to the Examiner's Response to Argument

A. Argument Regarding Bateman et al. Provided in Paragraph 1 of the Response to Arguments

i) Discussion Regarding Smith et al. and Specific Agent Teachings

The Examiner argues that while Bateman et al. "in the Examiner's first interpretation shows no need to include an agent's telephone number, Smith et al. teaches a well known motivation to request communication with a specific agent." (Examiner's Answer, p. 9.) As discussed above, Smith et al. does not discuss using a telephone number to identify a specific agent and the Examiner has failed to cite a reference that shows this. In addition, as noted in the Examiner's discussion, agents can be identified by things other than a telephone number. Accordingly, even if Smith et al. did teach a desire to request a specific agent, there is nothing in Smith et al. that would lead one to conclude that a telephone number should be used as the agent identifier or that Bateman et al. should be modified as proposed by the Examiner, particularly since there is no need to supply the phone number of the agent in the two embodiments cited in rejecting claim 1.

ii) **Discussion Regarding the Failure of Bateman et al. to "Need" a Message from a Users Computer of the Type Recited in Claim 1**

The Examiner proceeds to acknowledge Appellants' argument that:

Bateman et al. shows no "need" to include an agent's telephone number. However "need" is different from a showing that it would not be possible for Bateman et al. to be modified as discussed by the Examiner. (Examiner's Answer, p. 10.)

Appellants respectfully submit that Appellants' position is directed to the Examiner's burden of showing obviousness. Appellants' points are 1) the Examiner has not shown any teaching or suggestion in the art to modify Bateman et al. to generate a message including the two phone numbers as recited and 2) to the extent that the Examiner relies on inherency arguments with regard to claim 1 they are fundamentally flawed since there is no "need" to include the two phone numbers in a message from a user premise in the embodiments of Bateman et al. relied on by the Examiner to reject claim 1 (i.e., if there is no "need" in Bateman et al. for the recited claim feature, the recited feature is not inherent).

iii) **Discussion of the Examiner's Mistaken Interpretation of the Computer 111 Rendering the Beacon Server 109 Unnecessary in the Second Embodiment Relied Upon by the Examiner to Reject Claim 1**

On page 10 the Examiner asserts:

As to appellant's argument regarding the embodiment of Bateman et al. shown in Figs. 6 and 7, note that Fig. 7 illustrates a scenario wherein a screen assisted telephone (SAT) set is used. However, as discussed above, a PC 111 may be used, and therefore, in that case, no beacon/CTI server 109 would be needed. (Examiner's Answer, p. 10 (emphasis added).)

The Examiner argues that this embodiment involves use of "a screen assisted telephone set," somehow implying that this is what forces the need for beacon/CTI server

109 in the call flow. Bateman et al. makes it clear that this embodiment, and thus the call flow of Fig. 7 is intended for use with "the customer premises 100 equipped with a telephone (or a screen assisted telephone set) 110. Accordingly, the use of the beacon/CTI server 109 is not mandated by the type of telephone set but rather is part of the call flow procedure and is important to the interaction with the company's multimedia server 28 and the telephone switch 116 to initiate calls. (See Fig. 7.) In the Col. 8 embodiment shown in Figs. 6 and 7, the PC 111 is not an alternative to beacon/CTI server as alleged by the Examiner and is not described as such. In addition, it is notable that a review of the text of the patent does not reveal the use of the term "beacon CTI" in any way to describe PC 111. The term "beacon" seems to only be used with regard to beacon/CTI server 109. This furthers Appellants' argument that the Fig. 7 embodiment clearly involves use of the beacon/CTI server 109 and not the PC 111 in its place as the Examiner seems to suggest.

Any suggestion by the Examiner of replacing beacon/CTI server 109 with PC 111 is not supported by Figure 6, Figure 7, the discussion of the embodiment relied upon by the Examiner in col. 8, or any other part of the reference as far as Appellants can ascertain. Given the Examiner's failure to provide any support which would render the Examiner's proposed alterations to the embodiment described in col. 8 of the reference and illustrated in Figures 6 and 7, Appellants respectfully submit that any rejection based on such Examiner modifications should not be upheld.

**iv) Discussion of the Examiner's Comments
Regarding the Possibility of Multiple Messages**

The Examiner states on Page 10:

Even accepting appellant's argument, no language in claim 1 specifically limits the present invention to using a single call initiation message, only that one message is received from the customer's computer, wherein that message contains both the telephone number of the customer and at least one agent.
(Examiner's Answer, p. 10.)

The point of Appellants' argument is that the references do not teach, suggest, disclose, or render obvious even one

message, originating from a computer located at a user premise, over the Internet representing a request for a call from a customer service representative, said message including a telephone number corresponding to said user and a telephone number corresponding to at least one customer service representative

as recited in claim 1.

Given this failure of the reference, the Examiner's comments regarding multiple messages and later discussion about calling equipment not expressly using the message are irrelevant since the limitations which are present in the claims are not rendered obvious by the applied references.

v) **Discussion of the Examiner's Comments
Regarding Standard Call Processing Messages**

The Examiner asserts:

the alternative interpretation also includes a scenario wherein, the message is some standard call processing message known in the art if not inherent. Again, in any call request control message, information including the calling and called number must be present. Otherwise there would be no way for an originating and terminating switch to complete a call. (Examiner's Answer, p. 11.)

As discussed above, while the telephone switch 116 in the Fig. 7 embodiment described in col. 8 of the Bateman et al. reference, it is the Beacon/CTI server 109 which controls the telephone switch not the user's computer. The message to the telephone switch need not originate from the customer's PC and thus the phone number of the ACD system or Agent may be provided by the Beacon/CTI server 109.

**B. Reply to Examiner Arguments Made
in Paragraph (2) of the Response to Arguments**

The Examiner makes several statements asserting "Appellant cannot be arguing that it is not known ...".

Appellants have, in fact, disputed each of the Examiner's statements which are not supported by the applied references. The Appellant has a right, as discussed above, to request the Examiner to support the rejections with either an affidavit or by citing references. The Examiner's failure to do so deprives Appellants of having an opportunity to discuss and refute the Examiner's basis for the rejection.

If the Examiner is allowed to make rejections without providing the support, Appellants do not have the opportunity to address whether one of ordinary skill in the art would be motivated by the available art, when taken as a whole, to make the various modifications and changes suggested by the Examiner.

For example, the Examiner makes the statement:

Moreover, if an agent has a telephone, they have an associated telephone number. Even if what examiner has argued above were not known, there is nothing from stopping an agent from giving his/her direct line telephone number to a customer to use at a later time. (Examiner's Answer, p. 13.)

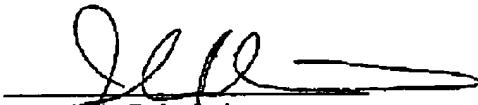
Statements like the above may seem reasonable to the Examiner, but when considering the context of many ACD systems in which customer representatives work, they are actually quite unreasonable. For example, telephone operators may not work at fixed terminals on a regular basis and therefore even if they know the incoming telephone number at which they are answering calls at one moment, when they switch to a different terminal or calls are routed in a different manner by the ACD system, the telephone number being answered by the particular customer serve representative will no longer be the same. Furthermore, in such a system assuming the agent knows the telephone number he/she is answering at any given moment, giving it out to a customer for later use is not practical in a system where the number changes frequently. As the Examiner has failed to identify any specific system or reference which provides agent specific phone numbers to customers, Appellants have been unable to assess the merits of any combination the Examiner might be thinking about.

From the above, it should be appreciated that it is not unreasonable for Appellants to expect the Examiner to cite actual references or provide an affidavit setting forth the basis of the rejection so that they can have a fair opportunity to respond.

V. Conclusion

Appellants have established that the Examiner's rejections are in error and are not supported by the applied art. Accordingly, it is requested the rejections of the claims be overruled.

Respectfully submitted,



February 1, 2005
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I hereby certify that this paper (an any accompanying paper(s)) is being sent via First Class Mail postage prepaid to the United States Patents and Trademark Office, addressed to Mail Stop Appeal Brief-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Christian Andersen

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Signature

February 1, 2005
Date